IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

WP(C).No. 27538 of 2005(C)

PETITIONER:

DR. A.K.B. SADBHAVANA MISSION TRUST,
SARADHA HEALTH CENTRE, KOYILANDY,
REPRESENTED BY ITS MANAGER DR. SANU JOHN KOVOOR,
AGED 33 YEARS, S/O. K.A. ELIAS.

BY ADV. SRI.BABU KARUKAPADATH
SRI.JAGAN GEORGE
SRIK.A.NOUSHAD

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED
BY SECRETARY, HEALTH AND FAMILY WELFARE
DEPARTMENT, GOVERNMENT OF KERALA,
SECRETARIAT, TRIVANDRUM.

2. THE PRINCIPAL & CONTROLLING OFFICER,
GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE,
TRIVANDRUM.

BY GOVERNMENT PLEADER – ADV. SMT.SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05/03/2007, WPC NO. 34657 OF 2006
THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P.(C)No. 27538/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF THE ORDER DATED 17/02/2004 ISSUED BY THE 1ST RESPONDENT.

EXT.P2 COPY OF THE NOTIFICATION ISSUED BY THE 1ST RESPONDENT.

EXT.P3 COPY OF THE INSPECTION REPORT SUBMITTED BY THE EXPERT COMMITTEE TO THE 1ST RESPONDENT.

EXT.P4 COPY OF THE ORDER DATED 24/08/2004 IN W.P.(C)No. 24592/2004.

EXT.P5 COPY OF THE ORDER DATED 20/12/2004.

EXT.P6 COPY OF THE JUDGMENT DATED WA NO.960/2005 OF THIS HON'BLE COURT.

EXT.P7 COPY OF THE ORDER DATED 06/07/2005 ISSUED BY THE 1ST RESPONDENT.

EXT.P8 COPY OF THE REPRESENTATION DATED 25/07/2005 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.

EXT.P9 COPY OF THE REPRESENTATION DATED 20/08/2005.

EXT.P10 COPY OF THE MALAYALA MANORAMA DAILY DATED 27/08/2005.

EXT.P11 COPY OF THE RELEVANT PORTION OF THE MATHRUBHUMI DAILY DATED 05/09/2005.

EXT.P12 COPY OF THE ORDER DATED 05/11/2004 IN W.P.(C)No. 27472/2004 OF THIS HON'BLE COURT.

EXT.P13 COPY OF THE RELEVANT PORTION OF THE MALAYALA MANORAMA DAILY DATED 20/09/2005.

EXT.P14 COPY OF THE PROSPECTUS DATED 30/06/2000 ISSUED BY THE PRINCIPAL AND CONTROLLING OFFICER FOR CONDUCT OF NURSE-CUM-PHARMACIST COURSE.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) Nos. 27538 of 2005 and 34657 of 2006

Dated, this the 5th day of March, 2007

J U D G M E N T

Petitioner is a trust running an institute to train students as Nurse-cum-Pharmacists in Homoeopathy. Common Examination is conducted by the Government for all the students attending the same course in Government Homoeopathy Colleges and in institutes run by petitioner and others. The questions raised pertain to petitioner's right to fix the fees to be collected from the students, the procedure for selection for admission and also the minimum qualification required for admission. The learned counsel for the petitioner pointed out that by virtue of the consistent decisions of the Supreme Court in **TMA Pai Foundation Vs. State of Karnataka** (2002 (8) SCC 481), **Islamic Academy of Education Vs. State of Karnataka** (2003 (6) SCC 697) and **P.A.Inamdar Vs. State of Maharashtra** (2005 (6) SCC 537), management's right to fix fees is settled in their favour. The next issue covered by the above decisions is their right to make selection for admission, where the Supreme

Court has held that it should be done in a fare and reasonable manner. Following the above judgments, the petitioner's entitlement to fix the fees and their right of selection for admission in a reasonable manner are upheld.

2. In so far as, the minimum qualification is required, petitioner has represented to Government to take a realistic approach in the matter because if selection is from students, who secured first class in SSLC, there will be shortage of students for admission to the course. This original petition is accordingly disposed of with a direction to the 1st respondent to decide the question of qualification and dates for commencement of course.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg